

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Pittsburgh Water and Sewer Authority	:	
	:	Violations of the Pennsylvania Safe
Penn Liberty Plaza 1	:	Drinking Water Act and Regulations
1200 Penn Avenue	:	
Pittsburgh, PA 15222	:	

**ADMINISTRATIVE ORDER**

NOW, this 25th day of April, 2016, the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") issues this Administrative Order after it has found and determined the following:

**FINDINGS**

A. The Department is the agency with the duty and authority to administer and enforce the Pennsylvania Safe Drinking Water Act, Act of May 1, 1984, P.L. 206, *as amended*, 35 P.S. §§ 721.1-721.17 ("Safe Drinking Water Act"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. §510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder ("Regulations").

B. The Pittsburgh Water and Sewer Authority (Authority) is a municipal authority with a business address of Penn Liberty Plaza 1, 1200 Penn Avenue, Pittsburgh, PA 15222. The Authority is a "person" as that term is defined in Section 3 of the Safe Drinking Water Act, 35 P.S. § 721.3. The Authority owns and operates a "public water system" and more specifically, a "community water system" as those terms are defined in Section 3 of the Safe Drinking Water Act, 35 P.S. § 721.3, and Section 1 of the Regulations, 25 Pa. Code § 109.1

(System). The Authority provides drinking water through the System to approximately 300,000 customers in the Pittsburgh, Pennsylvania area. The Authority operates the System pursuant to multiple public water supply permits issued by the Department, and has been assigned Public Water System Identification Number 5020038.

***Substantial Modification of System***

C. Section 7(a) of the Safe Drinking Water Act, 35 P.S. § 721.7(a), provides that it is unlawful for any person to substantially modify a community water system without first having received a written permit from the Department authorizing such modification. “Substantial modification” includes changes which may affect the quality of water served to the public or may be prejudicial to the public health or safety.

D. Section 109.1105(a) of the Regulations, 25 Pa. Code § 109.1105(a), provides that a person may not substantially modify corrosion control treatment facilities without having obtained the appropriate permit approvals from the Department authorizing such modification. Section 109.501(b) of the Regulations, 25 Pa. Code § 109.501(b), provides that a person may not substantially modify a permitted public water system without first obtaining an amended construction permit from the Department pursuant to Section 109.503(b).

E. The Authority’s use of soda ash for corrosion control and compliance with the Regulations at 25 Pa. Code Chapter 109, Subchapter K, Lead and Copper, has been authorized by and is required under, *inter alia*, Public Water Supply Permit No. 465W001-T1-C1. In April of 2014, the Authority made substantial modification to its corrosion control treatment facilities and to its public water system by reducing and eliminating the use of soda ash for corrosion control without first obtaining an amended construction permit from the Department, in violation of Section 109.1105(a) and Section 109.501(b) of the Regulations and Section 7(a) of the Safe

Drinking Water Act, 35 P.S. § 721.7(a). The Authority has informed the Department that in early 2016, the Authority reinstated the use of soda ash in the System.

***Lead and Copper Monitoring***

F. The Authority is required, pursuant to the Regulations, to conduct regular and specific lead and copper monitoring in order to evaluate the level of these substances in the public's drinking water and the effectiveness of the System's corrosion controls. The Authority's most recent monitoring period was from June 1 through September 30, 2013, with the next scheduled monitoring period to occur from June 1 – September 30, 2016.

G. Section 109.1102(a) of the Regulations, 25 Pa. Code § 109.1102(a), establishes an action level for lead at 0.015 mg/L, and provides that the action level is exceeded when the concentration in more than 10% of tap water samples collected during a monitoring period is greater than the action level.

***The Authority's Lead and Copper Monitoring Results from 2013***

H. In 2013, the Authority reported to the Department the results of its lead and copper monitoring sampling, conducted between June 1 and September 30, 2013. The results showed a lead level of 0.0148 mg/L at the 90<sup>th</sup> percentile.

I. The Department has evaluated the available information regarding the Authority's temporary change of corrosion control treatment chemicals, and has determined that the Authority should conduct the actions described below to ensure the safety of its water system and protection of public health.

J. The Authority has expressed a desire to cooperate with the Department in undertaking these measures to its System, and an intent to conduct further investigation into lead

levels, the effect of prior changes to treatment methods, and further optimization of corrosion protection for its System.

### **ORDER**

NOW therefore, pursuant to Section 5 of the Safe Drinking Water Act, 35 P.S. § 721.5; Section 1917-A of the Administrative Code, 71 P.S. § 510-17; and Section 109.4 of the Regulations, 25 Pa. Code § 109.4, the Department hereby Orders that:

1. No later than May 16, 2016, the Authority shall submit to the Department the current sample site location plan for lead and copper testing in its System. In the event the Authority subsequently makes any changes to the sample site location plan, the Authority shall submit all changes to the Department within ten (10) days of the date each change is made.

2. a. For two consecutive periods, the Authority shall conduct “initial” lead and copper tap monitoring of its System in accordance with the requirements of 25 Pa. Code § 109.1103(a)(1) and the February 29, 2016 EPA Memorandum titled “Clarification of Recommended Tap Sampling Procedures for Purposes of the Lead and Copper Rule,” attached as Appendix A. The Authority also shall conduct two consecutive periods of “initial” water quality parameter (“WQP”) monitoring of its System in accordance with the requirements of 25 Pa. Code § 109.1103(a)(2).

b. Lead and copper sampling and WQP monitoring for the first period shall be completed no later than June 30, 2016 and the Authority shall report the results to the Department no later than July 10, 2016. Lead and copper sampling and WQP monitoring for the second period shall be completed no later than December 31, 2016, and the Authority shall report the results to the Department no later than January 10, 2017. Reported results shall include the location (including the residential / sample site street address) of each sample taken.

c. Immediately and on a continuing basis, the Authority shall submit to the Department, pursuant to 25 Pa. Code § 109.1107(a)(2), the results of all customer-requested first draw lead and/or copper samples. The results, and the location (including the residential / sample site street address) of each sample taken, shall be provided to the Department within ten (10) days of the Authority's receipt of the sample analysis results.

3. a. The Authority shall provide Tier 2 public notice to its consumers in accordance with the requirements of 25 Pa. Code § 109.409 and shall submit to the Department a certification of its compliance with the public notification requirements in accordance with the requirements of 25 Pa. Code § 109.701(a)(4). The notice shall discuss the Authority's change of corrosion control treatment chemicals and the measures the Authority is undertaking to evaluate impacts and appropriate amendments to the corrosion control treatment for its System. Within seven (7) days of the date of this Order, the Authority shall provide to the Department for approval the text of the Authority's proposed public notice.

b. The Authority shall provide repeat public notice to its customers within 30 days following the end of each of the two consecutive periods as required under Paragraph 2.a. of this Order. The notice shall include the 90<sup>th</sup> percentile value of the monitoring results, and any updates to the measures required under Paragraph 4, including the Authority's progress in conducting its investigation, determining the effect of changes to treatment methods, and developing recommendations for optimization of corrosion control within the System.

4. a. Within thirty (30) days of the date of this Order, the Authority shall develop and submit to the Department for its approval a plan and schedule to: conduct further investigation into lead levels within its System, determine the effect of prior and proposed changes to treatment methods on corrosion control within the System, and develop

recommendations for optimization of corrosion protection within the System (the “Plan”). The Authority shall modify the Plan within the time frame provided in any written request for modification from the Department. The Authority shall implement the Plan as approved or as modified and approved by the Department. On the first day of each month following Department approval of the Plan, the Authority shall submit to the Department a report summarizing the progress made by the Authority in implementing the Plan. Within thirty (30) days of the Authority’s completion of the approved Plan, the Authority shall submit to the Department a final report that includes the Authority’s findings from its investigation, all data produced during the investigation, and the Authority’s conclusions and recommendations for optimization of corrosion control within the System.

b. In its final report, the Authority shall submit to the Department and evaluate all available analytical data collected from June 1, 2013 through the date of this Order on both untreated and treated water at the plant. This shall include, but is not limited to, real time measurements such as temperature, flow, specific conductivity, oxygen reduction potential, pH, and dissolved oxygen as well as laboratory results for other Water Quality Parameters such as metals, turbidity, color, bacteria, total trihalomethanes, hardness/alkalinity, dissolved inorganic carbon, pH, dissolved oxygen, ammonia, chloride, sulfate, and natural organic matter. This data shall be organized in spreadsheet format, including the date and time of the sample, sample location, sample type, whether it is real time or lab data, the analyte, numeric result, and laboratory analytical method used if applicable.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law,

2 Pa. C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483.

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's Rules of Practice and Procedure may be obtained from the Board.

The appeal form and the Board's Rules of Practice and Procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD. IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

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Environmental Protection Program Manager  
Safe Drinking Water Program  
Southwest Regional Office